

PT 95-43  
Tax Type: PROPERTY TAX  
Issue: Religious Ownership/Use

STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS

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ST. FRANCIS SCHOOL FOR      )   Docket No.(s)  93-89-6  
EXCEPTIONAL CHILDREN       )  
                             )   PI No.      89-18-14-31-451-056  
                             )   (Stephenson County)  
                             )  
Applicant                   )  
                             )  
v.                           )  
                             )  
                             )  
THE DEPARTMENT OF REVENUE   )   George H. Nafziger  
OF THE STATE OF ILLINOIS    )   Administrative Law Judge  
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RECOMMENDATION FOR DISPOSITION

APPEARANCES: Attorney James W. Keeling appeared on behalf of the St. Francis School for Exceptional Children (hereinafter referred to as the "Applicant.")

SYNOPSIS: The hearing in this matter was held at 100 West Randolph Street, Chicago, Illinois, on June 6, 1995, to determine whether or not Stephenson County parcel No. 89-18-14-31-451-056 should be exempt from real estate tax for the 1993 assessment year? Is the Applicant a religious organization, which operates a school? Did the Applicant own the parcel here in issue and the buildings thereon, during all, or part of, the 1993 assessment year? Did the Applicant use this parcel and the buildings thereon, for religious and convent purposes, during the 1993 assessment year? Following the submission of all the evidence and a review of the record, it is determined that the Applicant is a religious organization, which operates a school. It is also determined that the Applicant owned the parcel here in issue and the buildings thereon, during the period March 29, 1993, through December 31, 1993. Finally, it is determined that the

parcel here in issue and the buildings thereon, were used by the Applicant as a convent for sisters who were associated with the school.

FINDINGS OF FACT: The position of the Illinois Department of Revenue (hereinafter referred to as the "Department") in this matter, namely that the parcel here in issue and the buildings thereon, did not qualify for exemption during the 1993 assessment year, was established by the admission in evidence of Department's Exhibits 1 through 6B.

Sister Ruth Ann Iwanski, administrator of the Applicant, was present, and testified on behalf of the Applicant.

On January 14, 1994, the Stephenson County Board of Review forwarded an Application for Property Tax Exemption To Board of Review, concerning the parcel here in issue and the buildings thereon, for the period March 29, 1993, through December 31, 1993, to the Department (Dept. Ex. No. 2). On June 30, 1994, the Department notified the Applicant that it was denying the exemption of this parcel and the buildings thereon, for the 1993 assessment year (Dept. Ex. No. 3). On July 18, 1994, the Applicant's attorney requested a formal hearing in this matter (Dept. Ex. No. 4). The hearing held in this matter on June 6, 1995, was held pursuant to that request.

The Applicant was incorporated on June 27, 1969, pursuant to the "General Not For Profit Corporation Act," of Illinois for the following purpose:

"To maintain and operate a facility for child care under the provisions of the Child Care Act of the State of Illinois."

The Applicant's residential school facility is located at 1209 South Walnut in Freeport. That property was a former hospital. The Applicant and the residential school facility was owned and operated during 1993, by the Roman Catholic Diocese of Rockford. During 1993, the Applicant served 40 to 44 students, ages five years old up to 21 years old, all of whom were either severely, or profoundly, mentally retarded, or autistic. The

Applicant operated 24 hours a day, 365 days a year. The Applicant provided the residents of this facility with school programming, from 7:00 A.M. to 2:00 P.M., Mondays through Fridays. The rest of the time the Applicant provided the residents with residential programming, including activities of daily living, as well as recreation and leisure skills.

During 1993, 30% of the Applicant's funds came from charitable contributions and endowments. The remaining 70% came from tuition fees and room and board fees. During 1993, the tuition was paid by each child's school district of origin, and the room and board fees were paid by the Illinois Department of Mental Health and Developmental Disabilities. During 1993, the Applicant employed seven classroom teachers, as well as a nun who taught home-ec. The Applicant also employed 13 teachers' aids. There were also seven full-time equivalent housekeeping and maintenance personnel, and 25 full-time equivalent child care workers, who supervised the children in their residential facilities. None of those persons lived on the school grounds during the period March 29, 1993, through December 31, 1993. Some of the Applicant's younger residents come to the facility for the short term to get their medications adjusted, and/or their behavior modified, so that they could return home. Others come and stay until they are 18 to 21 years of age, when they can be placed in an adult facility. Some residents come to the Applicant for a weekend, or up to a month, to give their family a break from providing their care.

The parcel here in issue is located directly south of, and adjacent to, the school parcels, and is commonly known as 1231 South Walnut. This parcel, during 1993, was improved with a two-story residence with a basement and a two-car garage. The Applicant acquired this parcel by a warranty deed dated March 29, 1993. During the period March 29, 1993, through December 31, 1993, this parcel and the residence and garage located thereon, were used by three nuns who were members of the order of the

School Sisters of St. Francis, as their convent. The nuns who lived in this residence were Sister Ruth Ann Iwanski, the administrator of the Applicant, Sister Monica, the home-ec teacher of the Applicant, and Sister Dion, the former principal and founder of the school who during the period March 29, 1993, through December 31, 1993, was retired, but did volunteer work for the Applicant. The entire parcel and the residence and garage were used by the sisters as their convent during the period March 29, 1993, through December 31, 1993. It was a condition of their employment that the sisters live in the residence on this parcel. The nuns had no ownership interest in the parcel, and did not pay rent. It was a requirement of their order that the nuns live in community.

I take Administrative Notice that the Department exempted the Applicant's school parcels in Docket No. 92-89-232. At the time that said exemption certificate was issued, the nuns who lived in the convent on the parcel here in issue during the period March 29, 1993, through December 31, 1993, lived in a convent facility located on the school parcels. The Application for Exemption in Docket No. 92-89-232 disclosed that there was a convent facility on those parcels during 1992.

1. Based on the foregoing, I find that the Applicant was a religious organization, which operated a school on the parcels adjacent to, and north of, the parcel here in issue during 1993.

2. Said school property, during 1993, was owned by the Roman Catholic Diocese of Rockford.

3. I find that the Applicant was owned and operated by the Roman Catholic Diocese of Rockford.

4. The Applicant, I find, owned the parcel here in issue and the buildings thereon, during the period March 29, 1993, through December 31, 1993.

5. I find that the parcel here in issue and the buildings thereon,

were used by the Applicant as a convent, for three nuns associated with the school located on the adjoining parcel, during the period March 29, 1993, through December 31, 1993.

6. I further find that in Docket No. 92-87-232, the Department exempted the school parcels owned by the Roman Catholic Diocese of Rockford and operated by the Applicant which were located adjacent to and north of the parcel here in issue, for the 1992 assessment year.

7. Finally, I find that Docket No. 92-89-232 included a convent facility located on the school grounds.

CONCLUSIONS OF LAW: Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

"The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes."

35 ILCS 205/19.2 exempts certain property from taxation in part as follows:

"All property used exclusively for religious purposes, or used exclusively for school and religious purposes, and not leased or otherwise used with a view to profit, including all such property owned by churches...and used in conjunction therewith as parsonages...provided for ministers...their spouses, children and domestic workers, performing the duties of their vocation as ministers at such churches...."

A parsonage,...shall be considered for purposes of this Section to be exclusively used for religious purposes when the...church,...requires that the above listed persons who perform religious related activities shall, as a condition of their employment or association reside in such parsonage...."

It is well settled in Illinois, that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. *International College of Surgeons v. Brenza*, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. *People ex rel. Goodman v.*

University of Illinois Foundation, 388 Ill. 363 (1944). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967).

In the case of McKenzie v. Johnson, 98 Ill.2d 87 (1983), the Illinois Supreme Court held that the parsonage exemption set forth above, was constitutional.

Based on the foregoing, I conclude that the Applicant was owned and operated by the Roman Catholic Diocese of Rockford. I further conclude that the parcels on which the Applicant's residential school were located, were owned by the Roman Catholic Diocese of Rockford. I also conclude that the Applicant owned the parcel here in issue and the buildings thereon, during the period March 29, 1993, through December 31, 1993. I conclude that the Applicant used the parcel here in issue and the buildings thereon, during the period March 29, 1993, through December 31, 1993, for religious purposes, namely as a convent for nuns of the order of The School Sisters of St. Francis who worked at, or were connected with, the Applicant's residential school located on the parcels, which adjoin this parcel on the north.

I therefore recommend that Stephenson County parcel No. 89-18-14-31-451-056 be exempt from real estate tax for 76% of the 1993 assessment year.

Respectfully Submitted,

George H. Nafziger  
Administrative Law Judge